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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOE subscriber assigned IP address
69.117.41.213,

Defendant.

Case No. 2:18-cv-00203-WHW-CLW

**PLAINTIFF'S FIRST MOTION FOR EXTENSION OF TIME WITHIN
WHICH IT HAS TO SERVE JOHN DOE DEFENDANT WITH A
SUMMONS AND AMENDED COMPLAINT**

Pursuant to Fed. R. Civ. P. 4(m), Plaintiff, Malibu Media, LLC, moves for entry of an order extending the time within which Plaintiff has to serve the John Doe Defendant with a Summons and Amended Complaint, and states:

1. This is a copyright infringement case against a John Doe Defendant known to Plaintiff only by an IP address. Defendant's true identity is known by their

Internet service provider (“ISP”).

2. Pursuant to Fed. R. Civ. P. 4(m), “if the plaintiff shows good cause ... the court must extend the time for service for an appropriate period.” To show good cause, a party “must demonstrate that it made a good faith effort to comply with the rule as well as provide some reasonable justification for its noncompliance.” *Suegart v. U.S. Customs Serv.*, 180 F.R.D. 276, 279 (E.D. Pa. 1998). In determining whether good cause for the extension of time for service exists, district courts consider: “(1) reasonableness of plaintiff’s efforts to serve (2) prejudice to the defendant by lack of timely service and (3) whether plaintiff moved for an enlargement of time to serve.” *Cunningham v. New Jersey*, 230 F.R.D. 391, 393 (D.N.J. 2005).

3. Plaintiff commenced this action against the internet subscriber assigned IP 69.117.41.213 (“Defendant”) on January 08, 2018, at which time it filed a complaint alleging that Defendant copied and distributed one or more of Plaintiff’s copyrighted works, all without Plaintiff’s consent. *See* CM/ECF 1. Plaintiff asserted a claim for direct copyright infringement, and requested that Defendant delete and permanently remove, and be enjoined from continuing to infringe, Plaintiff’s copyrighted works. *See id.*

4. On March 26, 2018, Plaintiff was granted leave to serve a third-party subpoena on Defendant’s ISP, Altice f/k/a Optimum Internet Services, to obtain the Defendant’s identifying information [CM/ECF 5]. Plaintiff issued the subpoena on

March 26, 2018 and expects to receive the ISP's response on or about May 11, 2018.

5. Upon receipt of the subscriber's identifying information, Plaintiff will conduct an investigation to determine if the subscriber is indeed the infringer.

6. Pursuant to Fed. R. Civ. P. 4(m), Plaintiff is required to effectuate service on Defendant no later than April 8, 2018. Because the Defendant's identity remains unknown to Plaintiff, Plaintiff is unable to comply with the current service deadline.

7. Procedurally, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Amended Complaint on Defendant be extended until at least forty-five (45) days, after it expects to receive the ISP's response, or until June 25, 2018.

8. This motion is made in good faith and not for the purpose of undue delay.

9. None of the parties will be prejudiced by the granting of this extension.

WHEREFORE, Plaintiff respectfully requests that the time within which it has to effectuate service of the summons and Amended Complaint on Defendant be extended until June 25, 2018. A proposed order is attached for the Court's convenience.

Dated: April 6, 2018

Respectfully submitted,

By: /s/ Patrick J. Cerillo
Patrick J. Cerillo, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2018, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

By: /s/ Patrick J. Cerillo